



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0711; FRL-10002-46-Region 4]

Air Plan Approval; GA; Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, in letters dated September 19, 2006, with a clarification submitted on November 6, 2006, and July 31, 2018.

EPA is approving miscellaneous changes to several Georgia rules. This action is being finalized pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This rule will be effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0711. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory

Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

GA EPD submitted a SIP revision through a letter dated July 31, 2018, to EPA for review and approval into the Georgia SIP that contains changes to a number of Georgia's air quality rules in Rule 391-3-1.¹ The changes that EPA is approving into the SIP through this rulemaking revise Rule 391-3-1-.01, "Definitions,"² Rule 391-3-1-.02(2)(c), "Incinerators," Rule 391-3-1-.03(6), "Exemptions," and Rule 391-3-1-.03(11) "Permits by Rule."

¹ EPA received the submittal on August 2, 2018. The cover letter includes other rule changes that have been or will be addressed in separate EPA actions.

² Consistent with Georgia's request, EPA is approving only the changes to the following definitions: 391-3-1-.01(o), "Manager," 391-3-1-.01(kkk), "Small Business Compliance Advisory Panel," 391-3-1-.01(lll), "Small business stationary source or facility," and 391-3-1-.01(mmm), "Small business stationary source technical and environmental office."

See EPA's June 29, 2017 (82 FR 29418)³ direct final rule (DFR) and accompanying June 29, 2017 (82 FR 29469) notice of proposed rulemaking (NPRM) for further detail on the changes made in the September 19, 2006, submittal and EPA's rationale for approving the revision. Comments were due on July 31, 2017. EPA received adverse comments related to other portions of the DFR, but withdrew the entire DFR on August 22, 2017 (82 FR 39671). EPA received no comments on the changes made to Rule 391-3-1-.03(6), "Exemptions." Therefore, EPA is finalizing approval of those changes in this action.

See also EPA's July 10, 2019 (84 FR 32851) NPRM⁴ for further detail on the changes made in the July 31, 2018, submittal and EPA's rationale for approving the revision. Comments were due on August 9, 2019, and EPA received no significant, adverse comments on the NPRM. EPA is approving these SIP revisions because they are consistent with the CAA.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia's air quality Rules 391-3-1-.01, "Definitions," 391-3-1-.02(2)(c), "Incinerators," and 391-3-1-.03(11) "Permits by Rule," State effective July 23, 2018, and Rule 391-3-1-.03(6), "Exemptions," State effective August 9, 2012,⁵ which contain clarifying and

³ EPA published a DFR and accompanying NPRM to approve changes to Rule 391-3-1-.03(6) and other changes on June 29, 2017 (82 FR 29418). EPA received adverse comments on the direct final rule—though not on the portion of the rule approving changes to Rule 391-3-1-.03(6)—and published a document withdrawing the DFR on August 22, 2017 (82 FR 39671). EPA is finalizing approval of the changes submitted to 391-3-1-.03(6) based on the June 29, 2017 (82 FR 29469) NPRM.

⁴ EPA posted a memorandum of record in the Docket Identification No EPA-R04-OAR-2018-0711, to provide non-substantive clarification for two inadvertent errors in the NPRM, related to characterizing the changes as non-attainment new source review related in the summary only and incorrectly listing the state-effective date in the incorporation by reference section. The changes were correctly characterized in the remainder of the NPRM, and the submittal, with the correct effective date and changes noted, was available during the comment phase. Please see the memorandum for more information.

⁵ In this action, EPA is approving changes to Rule 391-3-1-.03(6), "Exemptions" with a State-effective date of July 13, 2006. However, for purposes of the State-effective date included at 40 CFR 52.570(c), this change to Georgia's

administrative edits as described in the NPRMs. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁶

III. Final Action

EPA is approving the aforementioned changes to Georgia's SIP submitted on September 19, 2006, and August 2, 2018, that make revisions to Rule 391-3-1-.01, "Definitions," Rule 391-3-1-.02(2)(c), "Incinerators," Rule 391-3-1-.03(6), "Exemptions," and Rule 391-3-1-.03(11) "Permit by Rule." EPA views these changes as being consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

rule is captured and superseded by EPA's April 9, 2013 (78 FR 21065) action, which approved changes to Rule 391-3-1-.03(6) with a State-effective date of August 9, 2012. EPA is therefore retaining the later State-effective date for Rule 391-3-1-.03(6) at 40 CFR 52.570(c).

⁶ *See* 62 FR 27968 (May 22, 1997).

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: November 13, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L - Georgia

2. Section 52.570(c) is amended by:

- a. Revising the entry for “391-3-1-.01”;
- b. Revising the entry for “391-3-1-.02(2)(c)” under the heading “Emissions Standards”;
- and
- c. Revising the entries for “391-3-1-.03(6)” and “391-3-1-.03(11)” under the heading “Permits”.

The revisions read as follows:

§ 52.570 Identification of plan.

(c) * * *

EPA-Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
391-3-1-.01	Definitions	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Except the first paragraph, sections (a) – (nn), (pp) – (ccc), (eee) – (jjj), (nnn) – (bbbb), (dddd) – (mmmm), (rrrr) – (ssss), approved on 12/4/2018 with a State-effective date of 7/20/2017; sections (ddd) and (cccc) - approved on 2/2/1996 with a

				State-effective date of 11/20/1994; (nnnn), approved on 1/5/2017 with a State-effective date of 8/14/2016; and sections (oooo) – (qqqq), which are not in the SIP.
**	**	*	*	*
Emissions Standards				
**	**	*	*	*
391-3-1-.02(2)(c)	Incinerators	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
**	**	*	*	*
Permits				
**	**	*	*	*
391-3-1-.03(6)	Exemptions	8/9/2012	4/9/2013, 78 FR 21065	
**	**	*	*	*
391-3-1-.03(11)	Permit by Rule	7/23/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Except sections (a) – (b)(5) and (b)(7) – (b)(10), approved on 2/9/2010 with a State- effective date of 7/20/2005; section (b)(6), approved on 3/13/2000 with a State-effective date of 12/25/1997; and the phrase “or enforceable as a practical matter” in section .03(11)(b)11.(i), which is not in the SIP.

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[FR Doc. 2019-25286 Filed: 11/21/2019 8:45 am; Publication Date: 11/22/2019]